

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

* * *

DEON D. SMALLEY,

Case No. 3:21-cv-00331-RCJ-CLB

Petitioner, ORDER

v.

WILLIAM GITTERE, et al.,

Respondents.

Petitioner Deon D. Smalley has submitted a *pro se* petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 and has now paid the filing fee (see ECF No. 1-1; ECF No. 5). The court has reviewed the petition pursuant to Habeas Rule 4 and directs that it be docketed and served on respondents.

A petition for federal habeas corpus should include all claims for relief of which petitioner is aware. If petitioner fails to include such a claim in his petition, he may be forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C. §2254(b) (successive petitions). If petitioner is aware of any claim not included in his petition, he should notify the court of that as soon as possible, perhaps by means of a motion to amend his petition to add the claim.

1 Petitioner has also submitted a motion for appointment of counsel (ECF No. 1-3).
2 There is no constitutional right to appointed counsel for a federal habeas corpus
3 proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999
4 F.2d 425, 428 (9th Cir.1993). The decision to appoint counsel is generally
5 discretionary. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir.1986), cert. denied, 481
6 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), cert. denied, 469
7 U.S. 838 (1984). However, counsel must be appointed if the complexities of the case
8 are such that denial of counsel would amount to a denial of due process, and where the
9 petitioner is a person of such limited education as to be incapable of fairly presenting his
10 claims. See *Chaney*, 801 F.2d at 1196; see also *Hawkins v. Bennett*, 423 F.2d 948 (8th
11 Cir.1970). Here, Smalley is serving a lengthy sentence, the status of his state
12 postconviction proceedings is unclear, and it appears that some of the legal issues he
13 wishes to raise may be complex. Therefore, Smalley's motion for counsel is granted.
14

15 **IT IS THEREFORE ORDERED** that the Clerk **file and ELECTRONICALLY**
16 **SERVE** the petition (ECF No. 1-1) on the respondents.
17


18 **IT IS FURTHER ORDERED** that the Clerk add Aaron D. Ford, Nevada Attorney
19 General, as counsel for respondents and provide respondents an electronic copy of all
20 items previously filed in this case by regenerating the Notice of Electronic Filing to the
21 office of the AG only.
22

23 **IT IS FURTHER ORDERED** that the Clerk detach and file petitioner's motion for
24 appointment of counsel (ECF No. 1-3).
25

26 **IT IS FURTHER ORDERED** that petitioner's motion for appointment of counsel is
27 **GRANTED**.
28

IT IS FURTHER ORDERED that the Federal Public Defender for the District of
Nevada (FPD) is appointed to represent petitioner.

DATED: 13 January 2022.


ROBERT C. JONES
UNITED STATES DISTRICT JUDGE